

AOP 5: EXPUNGEMENT OF RECORDS	Page 1 of 2
Division of Forensic Science Administrative Operating Procedures	Amendment Designator:
	Effective Date: August 1, 2002
<p style="text-align: center;">AOP 5: EXPUNGEMENT OF RECORDS</p> <p>5.1 BACKGROUND</p> <p>State and Federal statutes require expungement of criminal records pertaining to adults and juveniles under certain conditions. The Virginia Department of State Police (VSP) directs the manner by which expungements of adult records occur (Title 19.2-292.2, <i>Code of Virginia</i>); Juvenile and Domestic Relations Courts direct expungement of juvenile records (Section 16.1-306). In compliance with these statutes, when expungement is required the Division of Forensic Science Central Laboratory administrative personnel (the Forensic Laboratory Business Manager or other person delegated this responsibility) will follow procedures outlined below.</p> <p>5.2 EXPUNGEMENT OF ADULT RECORDS</p> <p>5.2.1 Responsibility of the Forensic Laboratory Business Manager or other authorized person:</p> <p>5.2.1.1 Use information contained in the expungement order, the LIMS, or any other DFS finding aid to determine whether or not there are Division created records pertaining to the cited case, and if so, the appropriate FS Lab #.</p> <p>5.2.1.2 Determine which lab(s) performed examinations in the cited case and retrieve all case files for expungement. Notify laboratories to ensure that all information is submitted promptly for inclusion in the sealed file.</p> <p>5.2.1.3 Remove from the files, place in an envelope, and seal all records which identify the individual named in the expungement order (i.e., reports, notes, index cards, microfilm images, etc.).</p> <p>5.2.1.3.1 In cases with multiple individuals, make a photocopy of all records pertaining to the expungement, and place the copies in the sealed envelope in lieu of the original records, so that a copy of the entire record will be available in the event the file is later ordered to be reopened. The name of the individual to be expunged, as identified in the expungement order, will be deleted throughout the original record.</p> <p>5.2.1.3.2 Clearly mark the sealed envelope: “EXPUNGED RECORD TO BE UNSEALED ONLY BY ORDER OF THE _____ CIRCUIT COURT.” Put the FS Lab # or other appropriate identifier on the envelope.</p> <p>5.2.1.3.3 In the case of records maintained on an automated system, notify the Central Laboratory Systems Administrator or his/her designee so that he/she may expunge the name of the individual identified in the expungement order.</p> <p>5.2.1.4 Maintain all expunged records in a separate file in a secure place at the Central Laboratory.</p> <p>5.2.1.5 Maintain an index of all sealed files to allow for subsequent retrieval if the same court orders the case to be reopened at a later date. The index should contain only the individual’s name, the corresponding file number (FS Lab #, DNA Data Bank #, etc.), the name of the court which issued the expungement order, and the date of expungement. No other information should be maintained on the index.</p> <p>5.2.1.6 Notify the VSP or the court, as appropriate, in writing, of compliance with the court order.</p> <p>5.2.1.7 Place in the case file a letter-sized sheet of paper stating: “FS LAB # [XXX-12345] WAS EXPUNGED ON [DATE] BY ORDER OF THE [NAME OF COURT]. Return the case file to State Records Center or the appropriate file room to be refiled.</p>	

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<p>5.2.2 Responsibility of the Central Laboratory Systems Administrator</p> <p>5.2.2.1 In the case of records maintained on an automated system, expunge the name of the individual identified in the expungement order.</p> <p>5.2.2.2 Scan the first subsequent computer printout to verify that the expunged record does not appear. Repeat procedures to delete expunged records from the computer if necessary.</p> <p>5.2.3 DFS responsibility when sample destruction is ordered</p> <p>5.2.3.1 When sample destruction is ordered, such as a DNA Data Bank sample, the destruction will be witnessed and properly documented for the file. Documentation will include name of person destroying the sample, name of witness, date, time, manner of destruction, and other pertinent information regarding the sample or its destruction.</p> <p>5.2.4 To any inquiry regarding the expunged record, the Division of Forensic Science will reply that no record exists with regard to such individual.</p> <p>5.3 EXPUNGEMENT OF JUVENILE RECORDS</p> <p>5.3.1 All juvenile records will be expunged according to the directions of the expungement order. If no special instructions are prescribed, the records will be expunged in accordance with ' 16.1-306, <i>Code of Virginia</i>. The following procedures will apply:</p> <p>5.3.1.1 All records in juvenile cases will be destroyed by supervised burning or shredding. Documentation will be maintained as outlined in &5.2.3.</p> <p>5.3.1.2 In cases with multiple individuals, the name of the individual to be expunged, as identified in the expungement order, will be deleted throughout the entire record as outlined in &5.2.1.3.</p> <p>5.3.1.3 When an automated record is canceled, the first subsequent computer printout will be scanned to verify that the expunged record does not appear. If necessary, procedures to delete expunged records from the computer will be repeated.</p> <p>5.3.1.4 To any inquiry regarding the expunged record, the Division of Forensic Science will reply that no record exists with regard to such individual.</p> <p style="text-align: right;">◆End</p>	